

Johnson was solid, dependable, and reliable. He helped to energize the African American community during the height of the civil rights movement. During the struggle for equality, he published the images of the murder of Emmett Till, which galvanized the civil rights movement. His magazines have been an anchor for African Americans and continue to do that today.

His contribution to the African American community and to American life was unique and significant, and tonight we all salute the memory of John Johnson.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

(Mr. McDERMOTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

(Mr. CUMMINGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

(Ms. EDDIE BERNICE JOHNSON of Texas addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Ms. KILPATRICK) is recognized for 5 minutes.

(Ms. KILPATRICK of Michigan addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

(Mrs. CHRISTENSEN addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

JUDGES AND OUR CONSTITUTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Arizona (Mr. FRANKS) is recognized for 60 minutes as the designee of the majority leader.

Mr. FRANKS of Arizona. Mr. Speaker, I appreciate the opportunity to speak tonight regarding some very significant things that are happening in our country today. We are in a critical time in our history when we have two U.S. Supreme Court vacancies and when we have a nominee like Judge John G. Roberts put forth by the President for Chief Justice of the United States.

Mr. Speaker, tonight I want to talk about the importance of having people on the courts who will read the Constitution for what it says, because I believe that it goes to the very heart of this Republic.

Our Founding Fathers, those who fought in the Revolution, did so because they wanted a rule of law and not a rule of men. Mr. Speaker, I believe with all of my heart that the historical moments that we are in will dictate whether or not that revolution is affirmed or vitiated, and I hope with all of my heart that the President, that the U.S. Senate and that this body will do everything that they can to make sure that we find people who will have fidelity to the Constitution and will read those words that our Founding Fathers so meticulously put down for what they say and not for what a liberal activist judge might wish them to say.

Mr. Speaker, the reason we write constitutional words down, the reason we write words down in agreements, in constitutions, or in declarations is because we want to preserve their intent. We want to preserve the agreement between the parties. We also want to make sure that no one can distort them in the future. And I will say more about that later; but, Mr. Speaker, there is going to be a great battle in the body next to us, because the liberal activists in that body will do everything they can to stop the confirmation of John G. Roberts or anyone who is committed to the rule of law, anyone who is committed to the original intent of the Constitution.

I am convinced that no matter what the President does in the next nomination, no matter what he does, they will attack the next nominee with equal force. It occurs to me that it is just important for us to encourage the President, to encourage the Senate to appoint and confirm people that will read the Constitution regardless of the outrage that the liberal activists put forth.

There is an old rhyme that says: "No one gains when freedom fails. The best of men rot in filthy jails. And those who cried appease, appease, are shocked by those they tried to please." And that is really the scenario before us. No matter how the efforts are made to appease those that want to use the judiciary to impose liberal activist notions on the people as a whole, no matter how we try to appease them, they are going to attack. I just hope that we see people that will firmly read the Constitution for what it says and will

do what is right no matter what. And I pray the President can steel his heart and that the Senators that stand for the rule of law will steel their own and that we will make sure that we find people on that Court that will do what is right.

You know, popularity sometimes overrules principle; but in this case I do not think it is going to, because popularity has always been history's pocket change. It is courage that is history's true currency, and I pray that for the President and for the U.S. Senate.

I use one example to start out this evening to relate how an out-of-control liberal judiciary affects our Nation. Just last week, an activist Federal judge once again ignored the law and the great traditions of this Nation to declare that the Pledge of Allegiance of the United States of America is unconstitutional. Now, Mr. Speaker, this speaks to the desperate need that I have outlined here to confirm judges who will apply the law, judges like John G. Roberts. Mr. Speaker, Mr. Roberts is a man that will read the Constitution for what it says, and the Pledge of Allegiance should have no fear with him as Chief Justice.

Last week's ridiculous ruling and decision by Jimmy Carter appointee and Federal liberal judge Lawrence K. Karlton is an outrage and a breathtaking example of arrogance on the part of a bigoted tyranny of liberal extremists on the Federal bench. In this decision, this activist judge cited as binding the Ninth Circuit Court of Appeals ruling that said that the voluntary recitation of the Pledge violates "the children's right to be free from a coercive requirement to affirm God."

In 2003, the United States Supreme Court dismissed for lack of standing that preposterous 2002 ruling by the Ninth Circuit, and that is the one we all know that found the Pledge unconstitutional. Michael Newdow, a self-professed atheist, did not even have custody of his daughter when he sued on her behalf. What is more, Mr. Speaker, his daughter did not even object to reciting the pledge in the first place. So when the Supreme Court vacated this obscene ruling, the late Chief Justice William Rehnquist concurred, and he so eloquently put forth the very simple truth of this matter. He said that the phrase "under God" does not change the Pledge into a religious idiom and it "cannot possibly lead to the establishment of religion or anything like it."

□ 2015

The late Chief Justice listed many references to Presidents invoking God, going all the way back to the very first one, George Washington. He cited other events as well that, "strongly suggest that our Nation and our national culture allows public recognition of our Nation's religious history and character."

Sandra Day O'Connor in her concurrence even stated that to eliminate references to divinity would "sever ties to a history that sustains this Nation even today."

Mr. Speaker, for 50 years the Pledge of Allegiance has been voluntarily recited in schools throughout the United States of America and it has always been voluntary. Nobody in America has ever been required by government to say the Pledge of Allegiance. And if they say it voluntarily, they are not required to say the words "under God." However, it is an outrage that beggars my vocabulary for those who hold the office of Federal judge to rule that it is now unconstitutional for students who want to voluntarily say the words "under God" if they so choose.

In my opinion the Founding Fathers who wrote the Constitution would deem those who handed down such outrageous rulings to be pitiful excuses for Federal judges and to be traitors to the Constitution itself. This ruling is a prime example of the liberal, activist priesthood of the black robe seeking to force upon the people a state of irreligion, and it is a pathetic example of jurisprudence that has dictated that the people must ignore their own belief and faith and embrace only a nonreligious expression. Mr. Speaker, it is a violation, pure and simple, of the free exercise clause.

We must not allow the people of this Nation to be forced by judicial tyranny to follow such an empty creed. This ruling is disgraceful and it serves as exhibit A in the case against judges who are intent on ignoring the Constitution and imposing their own twisted ideology upon the people. When liberal activist judges discount laws enacted by the people's representatives to enact their own agenda, the Constitution itself provides a remedy; and it is time for the people's House to fulfill our duty to the people, to protect the Constitution from liberal activist Federal judges.

Mr. Speaker, in striking down our Pledge of Allegiance, this judge has once again ignited a resolve in the American people that will ultimately lead to Federal reforms limiting their power to legislate from the bench. This judicial obscenity will not stand.

With all of that said, I still stand on this floor with great hope in my heart for the future of this country, because even a cursory, a cursory glance back at America's history should impart hope to all of us.

By the time the 1860s had come to America, the world had marked 7,000 years of powerful societies enslaving their fellow human beings. And, sadly, this was also true of America. However, America was never truly at peace in her heart with this hellish institution of slavery, and so it was that American slaves began to earnestly pray to God to intervene, and it seems God sent them President Abraham Lincoln, a man who understood the true meaning of those magnificent words,

"We hold these truths to be self-evident that all men are created equal and endowed by their Creator with certain unalienable rights."

Mr. Speaker, our Founding Fathers wrote those words down for us because they did not want us to forget their true meaning or fall prey to those who would deliberately destroy it. That has always been the preeminent reason why we write down documents, agreements, or constitutions in the first place: to preserve their original meaning and intent.

When the smoke of a horrible Civil War finally drifted from the air, 7,000 years of the world accepting the unrequited toil of human slavery was over. The prayer of slaves had been answered, and the United States of America began to emerge as the flagship of human freedom in the world.

But only 100 years later we began to stray from that path. We began to think only of ourselves. And in 1973 *Roe v. Wade* was handed down by the U.S. Supreme Court, and it brought wholesale abortion on demand to the land of the free, and the veil of darkness fell upon America. In that darkness we heard, but we disregarded the mortal cry of one little baby in the womb, and then there was another, and even another was heard until that sound had become the soul-wrenching cry of tens of millions.

We found ourselves and our national conscience disoriented and awash in the blood of our own children. Millions of prayers called out for another leader to remind us of those words that speak the divine message of human dignity, "all men are created equal."

Mr. Speaker, from the time we were conceived, all human beings are created equal. We do not become equal when we each reach a certain age or status. This is America's creed, that is our foundation, and how grateful we should all be that our Founding Fathers wrote those words down, and how desperate our commitment should be to remember what they mean.

Now in this day, in these moments, that test is upon us. The President of the United States has nominated an individual in John G. Roberts as Chief Justice of the United States who understands that all men are created equal. Mr. Speaker, I believe that this President understands those words in his own heart; and, indeed, it is his commitment to their meaning and his commitment to human dignity itself that has given him the courage to stand resolutely against terrorists to protect innocent human life.

But this President and each one of us in this body and each person in the body across the way must never forget that this thing called *Roe v. Wade* has taken more than 15,000 times the number of innocent lives lost on that tragic day of September 11. We live in a time when there is truly a glimmer of light breaking on the road before us; but the curve just ahead is sharp, and to miss it may be to plunge into the darkness.

The voice of destiny calls to our President and all of us in these decisive days to once again steel our hearts and to ask anew, Is it true in America that all men are created equal?

Mr. Speaker, our legacy to future generations and the survival of human freedom in the world will depend upon our answer. May God bless America, may God bless President George W. Bush, and may God bless Judge John G. Roberts.

Mr. Speaker, I yield to the gentleman from Texas (Mr. CARTER), whom we call Judge, who we all have the deepest respect for.

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding and for taking this time tonight to talk about this very important matter before our Nation right now.

The House of Representatives does not have a vote in this issue, but it does and should have a voice in the issue concerning the selection of the highest court of this land, and of all of the judicial appointments.

One of the duties of this House is to be a voice of the people of this country, because we of the elected officials in this House of Representatives, we are the ones that have the smallest districts and are closest to the people. Most of us are home every weekend talking to the folks back home. We have a good idea of the kind of capabilities that our people are looking for in their judges.

We have one of the great debates in history going on right now, with two potential justices to be appointed to the Supreme Court. We were here last week talking about this, and we told you that we would hope that everyone would watch the hearings that took place last week to see Judge Roberts. I predicted that Judge Roberts would be outstanding before the Senate, and I think my prediction was absolutely proven true. I think everyone acknowledges he showed great intelligence and great insight. He answered the questions appropriately. He asked to be excused from questions which were inappropriate for a judge to answer. He handled himself with charm and grace and intelligence, just exactly the way I predicted last week. I am not clairvoyant, I just know this man is the right man to be on the Supreme Court and to be the Chief Justice to lead that Supreme Court.

We know the Constitution gives them the vote. We hope that they will hear our voice. There is a lot of criticism that has been out there, and I want to ask the American people to think about just exactly what is the role of a judge in our society. I served for 21 years as a judge in Texas, a proud 21 years as part of the justice system of this Nation. I think what the lawyers that appear before a court and what the people who those lawyers represent want from a court is a judge that comes into the court with no preconceived notions, that will listen to the facts that pertain to the case, examine those facts carefully, apply the

law and the facts, and come up with a solution. That is what they want from the judge. That is what the Founding Fathers wanted for the justices of our Supreme Court. They wanted them to examine American law as it relates to each set of disputed facts that comes before that court, and, from the American jurisprudence and the common law, come up with an interpretation of whether or not our Constitution has been violated under certain circumstances, and to examine the laws of the United States and make them proper.

I do not think anybody argues with that. I think that it would be totally inappropriate to ask a judge to make a pretrial statement before a case is brought before the court as to where he would stand on an issue without hearing the full presentation in the court, reading the briefs, and making a decision based upon what has been presented in the court and the law as it stands in the United States at that time. That is what we want from our judges. Judge Roberts is that kind of judge and will give us those decisions.

I think it is almost laughable if you know how the court works. When a man is hired as a lawyer for somebody else, when a client comes into a lawyer's office and says I want to hire you to represent me in a case, now you would not want that lawyer that you hired to represent you in that case to go into court and argue the other side of the case against you, because that is not what he is getting paid to do. His job is to be an advocate for his client. And yet the criticisms that we hear against Judge Roberts are that he made arguments as a lawyer for a side before the Supreme Court or before other courts in favor of or against certain positions that some Members of the Senate do not agree with; therefore, he is inappropriate to be involved in any case that has to do with that.

We will start off with the pro-life issue. They argue that Roberts is pro-life because of two arguments that he made while he was representing the United States of America as a deputy solicitor general in *Rust v. Sullivan* and *Bray v. Alexandria Women's Health Clinic*. Roberts' opponents argue that Roberts unnecessarily called for the Supreme Court to overturn *Roe v. Wade* in *Rust*, a case challenging Federal regulations which prohibit certain recipients of Federal funds from counseling patients on abortion. Critics argue that the case could have been argued solely on the basis of statutory construction of the provisions at issue. Critics also point out that Roberts coauthored the government's amicus brief in *Bray*, a private suit brought against Operation Rescue, which argued that Operation Rescue was not engaged in a conspiracy to deprive women of equal protection rights.

Who was he arguing for? His side, his client, the people paying him to make an argument for them. And who is

someone sitting outside the courtroom, who are they to tell a lawyer how he should argue his case? Well, he should argue his case but not argue *Roe*. If he felt the interest of his clients were best protected and put forward by arguing against *Roe*, it is his job to argue against *Roe*.

□ 2030

If the next time he comes into court and someone has hired him to take the opposite position, that same lawyer would be arguing the other side of that case because that is what lawyers get paid to do. And an argument a lawyer makes in the courtroom and whom a lawyer represents in the courtroom, if that defines that lawyer, there is something wrong with how we think. That would be accusing every criminal lawyer in America of being a criminal because they talk in favor of criminals.

But if we do not have defense lawyers in criminal cases, we do not have a case because the State has the burden of proof in that case. The defense has no burden of proof whatsoever, but they have the right to representation under our Constitution.

Would we say that no lawyer would ever be fit for a court if he argued any position that might come before that court and we can tell what his position is going to be by his arguments in court? That, Mr. Speaker, is just one of the most ridiculous arguments that I think anyone could ever make. And anybody who would hire a lawyer to go into court to argue the other side of a case ought to fire his lawyer before the third word came out of his mouth and ask the judge to give him some more time to hire a decent lawyer to represent his position, and I think most lawyers would grant that.

And almost every argument that is made in this whole list of things that says Roberts is a right wing extremist, Roberts is anti-environment, Roberts is hostile to civil rights and affirmative action, Roberts is hostile to the rights of criminal defendants, Roberts is hostile to the first amendment of the establishment clause, all of these things are baloney because about 90 percent of their arguments are that he made this argument as an advocate for a client, which is his job. Lawyers argue every day in court as advocates for their clients when, in their heart of hearts, we cannot tell whether they are for what their client is for or against what their client is for. But, by golly, they make us think they are because that is their job to represent their client and convince the court that their position is valid. That is what they get paid for.

The other arguments they have in here are some arguments about dissents that were written by Judge Roberts on the court of appeals. Well, what do we want from a judge, a multijudge panel on the court? Do we want everybody up there that thinks exactly the same way on every issue? Then why do we need all of them? Why not just pick

one every day, and we know we can get the same verdict every time because they all just think alike? Or why do we even need judges? If we have a set of criteria that we absolutely feel that everybody ought to have to be a judge, why do we not just program it into the computer, feed the facts and the argument into the computer, and if it does not fit the computer program, we spit it out and they lose?

That is not what a court is all about. That is not what a multijudge court is all about. It is about intelligent students of the law with experiences in the courtroom, both as advocates and as fair and impartial judges, who are able to go together, take their combined intelligence, make arguments to themselves as they discuss the case, and come up with the combined intelligence of those people and the combined opinions of those people, which may be diverse, which comes up, we have discovered, over and over and over in our courts of justice, comes up with good decisions that fit the appropriate actions that are necessary for the court.

If we have everybody who thinks just alike and there is a litmus test for every member of the judiciary, we do not need all those Supreme Court Justices. Let us just give one guy superpower and dictatorial power over the judiciary and move on.

I think that both sides would feel passionately about issues concerning the Court. But the reality is there is a place in that Court for diverse opinion, and if we do not have diverse opinion, we do not have a Court that can effectively give a broad-based analysis of the law that comes before it. And then to go and try to come up with stuff that does not mean a thing by saying he represented somebody is just on the verge of laughable, and I think in all reality the arguments that are being made are spurious at best.

I would encourage our colleagues in the Senate that they pass this case on, bring it up on the floor as soon as possible. We now have a Court that has basically two vacancies, one being filled until another Justice is selected and one that is empty. We have a Court that is going to work in October. I think it is important that we pass Judge Roberts out to a vote on the floor of the Senate, that they have an up-or-down vote on the floor of the Senate; and if Judge Roberts does not get the vote, then let us find somebody else to fit the job with an up-or-down vote on the Senate side. If he does get it, let us get him in to start working on the job so he can be ready as this Court convenes in October. And then let us get to work on our next Justice that is coming down, and let us not try to establish litmus tests.

Let us not try to make people walk the line of somebody's political agenda. Let us say, Mr. President, give us a fair and impartial judge that knows the law, knows how to find the law, knows

how to interpret the American jurisprudence, not some foreign jurisprudence, but the American jurisprudence and the common law and come up with the solution to our problems in our Supreme Court, and we will have fair and impartial justices in the Supreme Court of the United States. But there should be no litmus test whatsoever that is required of these nominees.

And I hope the President will come up with a good nominee for this next vacancy; and if he comes up with one with the quality of Judge John Roberts and the ability of Judge John Roberts, we will have hit a home run in the two nominees that have been submitted to the Senate. And I hope for rapid confirmation of both so that we can put the Supreme Court back to work with a full house.

Mr. FRANKS of Arizona. Mr. Speaker, I thank the gentleman from Texas (Mr. CARTER) for his comments. Mr. Speaker, we are all, again, so fortunate to have the gentleman from Texas (Mr. CARTER) in the House of Representatives because of the experience that he has. I could not help but see so clearly his commitment to the Constitution itself and his understanding of what the role of a judge is. I have to say that I think that the only time I have ever heard it put as succinctly was when Daniel Webster said: "Hold on, my friends, to the Constitution and to the Republic for which it stands. For miracles do not cluster, and what has happened once in 6,000 years may not happen again. Hold on to the Constitution, for if the American Constitution should fail, there will be anarchy throughout the world." And I know that the gentleman from Texas (Mr. CARTER) holds on to the Constitution.

I want to also yield to another man that holds on to the Constitution. The gentleman from Iowa (Mr. KING) is one who always has a copy of the Constitution in his pocket wherever he goes, and he is someone who has shown himself to be a true champion of this Constitution.

Mr. Speaker, I yield to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Arizona (Mr. FRANKS) for yielding to me. It is an honor for me to join him here on the floor again tonight. The last time, as I recall, the gentleman from Arizona (Mr. FRANKS), the gentleman from Texas (Mr. CARTER), and also the gentleman from Texas (Mr. GOHMERT) and I were here together to celebrate the life of Chief Justice William Rehnquist. That was a somber moment, a moment of reverence and respect and reminiscing; but also, we came away from that evening and we came away from that week with a sense of the legacy that was left by the years on the bench by Chief Justice Rehnquist.

And tonight we are actually looking ahead now, looking ahead to the future of this country, the future of this Constitution, this one that they have checked to see if I would have it in my

pocket. And, of course, it is there. That rumor has started around this Congress. Now I do not dare be without it. But I have carried it in my pocket for years, and it is not the freshest one. The old one that I had I autographed and handed over to the chief justice of the supreme court of the People's Republic of China as he visited here. I thought he should have a copy of the United States Constitution.

It is clear to me that already soon-to-be-Chief Justice Roberts is very familiar with this Constitution document and very reverent and very respectful.

A number of things in the conversation, particularly the gentleman from Texas's (Mr. CARTER) remarks reminding the press accounts and the critics of Judge Roberts, that he is hostile to *Roe v. Wade* or hostile to this or hostile to that. And as I look across that list that was presented, it occurs to me that he is hostile to one thing that I think we can agree on: he is hostile to enemies of the Constitution. I am grateful for that hostility. It might be the only sign in the gentleman's character that one can see that is of a hostility.

And I want to tell my colleagues that my background and history with him is not extensive, but I did have the privilege to have breakfast with Judge Roberts a couple months before he was nominated by the President. There was a group of about six or eight of us at the table, and certainly it was a larger room. I had a conversation with him that was not a continuous type of conversation where I could probe into his constitutional thoughts so much as it was to judge his reactions and judge by his remarks.

I would say that, of course, what I saw there was the man that we have seen day after day here before the Senate Judiciary confirmation hearings. The man that I think in the private life of John Roberts is the same person that we see in the public life of John Roberts. The people whom he surrounds himself with, the people who count themselves as his friends, the people who know him far better than I do I am impressed by, and I know them far better than I know John Roberts. But one can be judged by the company they keep, and the company that he has kept has been stellar company throughout.

I do not think that one could write for a blueprint for a life that would better describe a path to the Supreme Court and, in fact, to the Chief Justice of the Supreme Court than the life so far, the bio, resume of John Roberts. It is exemplary. I know that when they did the background check, or I am told this through the media, that there was not a single thing, it was the cleanest background check one could have asked for. Of course, I expected that, but I wanted to put that into the record as well.

There would not have been a nomination if there had been a problem; but it

was one of the more stellar background checks, I understand, that has been run. And that is through the grapevine. Nothing that has been public that I know of.

I want to tell the Members that Judge Roberts has this reverence for the Constitution, and I have put together some of the quotes that have come out of the confirmation hearings over in the Senate, and some of these quotes fall into different categories, but one is under strict construction of the Constitution. Judge Roberts confirmed my initial beliefs that he would uphold the true intent of our Founding Fathers by strictly construing our Constitution. And over and over in his testimony before the Senate Committee on the Judiciary, he verified that he is a strict constructionist and that he believes judicial activism is dangerous to our system of government.

He summed it up in one line, the duty of all of us in the Federal Government, when he stated: "My obligation is to the Constitution. That's the oath."

I would like those words to echo again: "My obligation is to the Constitution. That's the oath."

If that happened to be the conviction of everyone in a black robe, we would have a lot easier task on the Committee on the Judiciary in the House of Representatives and on the Committee on the Judiciary in the United States Senate, for that matter.

His qualifications for the position of Chief Justice are, I think, clear. And the President has been impressed with not just his clarity of thought, not just with his brilliance of his legal reasoning but also with his personality, his character, his leadership abilities.

He explained his support for strict construction of the Constitution, and this would also be part of the record, when he said in the hearings, "Judges are not to put in their own personal views about what the Constitution should say, but they are supposed to interpret it and apply the meaning that is in the Constitution . . . and the job of a good judge is to do as good a job as possible to get the right answer." And over and over again, this kind of philosophy comes through, not an activist philosophy but a strict constructionist philosophy.

The same day he further described a judge's proper role, and he explained: "We don't turn a matter over to a judge because we want his view about what the best idea is, what the best solution is. It's because we want him or her to apply the law."

"We turn a matter over to a judge because we want him or her to apply the law." Not to apply their judgment, not to apply their whim, not to apply what they think the policy should be. That is the job of the legislative branch. And that is consistent with the vision of our Founders, and it absolutely consistent with the language and the text of the Constitution, and it certainly is not something that we see within the

activist judges that sometimes come before our courts and make those kinds of decisions, particularly the ninth circuit out there. And I know the gentleman from Arizona (Mr. FRANKS) referenced that, and I appreciate his bringing that subject up before the Speaker and before this country.

□ 2045

And Judge Roberts went on when he said, "It is because we want him or her to apply the law." I will continue that quote: "They are constrained when they do that. They are constrained by the words that you choose to enact into law," meaning the Senate or the Congress, "in interpreting the law. They are constrained by the words of the Constitution. They are constrained by the precedents of other judges that become part of the rule of law that they must apply."

Constrained, constrained, constrained, constrained. Four times in that paragraph he used the word "constrained." I think that is indicative of the kind of judge we are going to see, a judge that exercises constraint, and a constraint that is bound up within the words of the Constitution, within the text of the Constitution, within the clear meaning and the defined boundaries of the Constitution, and the rule of law, and constraint within the boundaries of being a member of the judicial branch of government whose job it is to, as he said, call the balls and the strikes.

I want to express some gratitude to Phyllis Schlafly for bringing that idea before this country and, in her book "The Supremacist" when she said that a judge's job is to be the umpire, to interpret the rule book. And now this man in his hearings picked up one more notch on that philosophy and said, my job is to call the balls and the strikes. Who would want to play a game before an umpire that did anything else? Who would want to play a game before an umpire that called the balls and the strikes as he wished them to be rather than what they actually were? That is what the judge's job is, and it is a very, very clear way to describe that.

Mr. Speaker, John Roberts will not be a justice who seeks to usurp the roles of the other two branches. On the first day of his hearings he stated, "I prefer to be known as a modest judge. That means an appreciation that the role of the judge is limited, that judges are to decide the cases before them," and I continue to quote, "they are not to legislate, they are not to execute the laws."

They are not to legislate, they are not to execute the laws.

He also explained that, "Judges have to decide hard questions when they come up in the context of a particular case. That's their obligation. But they have to decide those questions according to the rule of law; not their own social preferences, not their policy reviews, not their personal references,

but according to the rule of law. According to the rule of law."

Now, I never dreamed as a young man, and I began in about eighth grade to study this Constitution and read this document and understand and really get some depth and appreciation for our history; I never thought I would be standing on the floor of the United States Congress celebrating an appointee to the Supreme Court because they want to rule according to the rule of law. I believed that every judge that ever put on a black robe would rule according to the rule of law. And here we have come to this point where activist judges cause me to come to celebrate because we have one before the Senate Committee on the Judiciary for a confirmation.

On the second day of the testimony, Judge Roberts said to his colleagues, "Judges need to appreciate that the legitimacy of their action is confined to interpreting the law and not making it, and if they exceed that function and start making the law, I do think that raises legitimate concerns about the legitimacy of their authority to do that." Another challenge, another constraint.

I could stand here and repeat Judge Roberts' testimony all night, Mr. Speaker; showcasing what a great candidate he is for this position would be something that I would continue on with. But when asked about his threats to the rule of law, he stated, "The one threat, I think, to the rule of law is a tendency on behalf of some judges to take that legitimacy and that authority and extend it into areas where they are going beyond the interpretation of the Constitution, where they're making the law. And because it's the Supreme Court, people are going to follow it, even though they're making the law."

That is chilling to those of us who revere this Constitution, but we do revere the Supreme Court. And because it is the Supreme Court, in his testimony, "people are going to follow it," even though they are making the law. Now, I will expand that and say, even though they are not following the law, even though they are not following the Constitution, people will respect and revere the decisions of the Supreme Court, because of the stature of the Court, without regard to the text and the intent of the Constitution or the law itself. That is my edit.

Then I will pick up that quote again. He follows that with, "The judges have to recognize that their role is a limited one. That is the basis of their legitimacy. Judges have to have the courage to make the unpopular decisions when they have to. That sometimes involves striking down acts of Congress. That sometimes involves ruling that acts of the executive are unconstitutional. That is a requirement of the judicial oath. You have to have that courage."

And I continue to quote: "But you also have to have the self-restraint to

recognize that your role is limited to interpreting the law and doesn't include making the law." And doesn't include making the law. I repeat that for effect because it has significant effect on me, Mr. Speaker.

This man, who is poised to step forward and don the robes of the Chief Justice of the Supreme Court, is a young man with a clear legal mind, a solid moral set of values, a clear understanding of his duty before the Court, a constitutional understanding, a rule of law understanding, and a duty to history. The years that I have left on this earth may not be as many as I pray he has, but every year that this unfolds and every year that these cases come before the Court, I pray that the President can appoint some justices to this court that will match the vision and the clarity and the legal understanding of this man, John Roberts, so that one day we can work ourselves back to this Constitution, this Constitution that he revere, that we revere.

Mr. Speaker, I yield back to the gentleman from Arizona, and I thank the gentleman.

Mr. FRANKS of Arizona. Mr. Speaker, I thank the gentleman. I would just echo some of the comments of the gentleman from Iowa (Mr. KING) in that this man, Judge John G. Roberts, is perhaps the most qualified person for Chief Justice, certainly in my lifetime, that we have seen. And if he is somehow castigated by liberals in the Senate and attacked because of his fidelity to the Constitution, then it seems that our only road leads to a judicial oligarchy, and those of us in this body can lock the doors and go home and quit pretending to be lawmakers, because the courts will then prevail over all.

It is interesting, because some of the Founding Fathers, and one in particular, Thomas Jefferson, said it this way. He said, "The object of my great fear is the Federal judiciary. That body, like gravity, ever acting with noiseless foot and unalarming advance, gaining ground step by step and holding when it gains, is engulfing insidiously the special governments into the jaws of that which feeds them."

This is not a new concern. Our courts have ruled that the black man was property. Our courts have ruled that unborn children are not human beings. Our courts have ruled that marriage and the family itself may be unconstitutional. Our courts have ruled that it is unconstitutional to protect a 9-year-old girl from Internet pornography. Our courts have ruled that that same little girl cannot say a certain prayer in school. Our courts have now ruled that it is unconstitutional for her to say the Pledge of Allegiance. And I wonder, Mr. Speaker, if those of us standing in this place would look out across the fields of Arlington and ask ourselves, is that why they died, so that we could uphold those kinds of asinine, ridiculous interpretations of the greatest Constitution that was ever written by man?

I think that we are turning a corner, and I think John G. Roberts is going to be a significant part of that.

Mr. Speaker, I would like very much to yield to my very good friend, the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Arizona. In fact, I am humbled to follow my colleagues in this discussion about this great man, Justice Roberts, and of course my colleagues, the gentleman from Arizona and the gentleman from Iowa, are both members of the House Committee on the Judiciary, and my great friend and classmate, in fact all four of us are classmates, but our own judge, we have several in the House, but my judge, the gentleman from Texas Mr. CARTER. It is an opportunity, though, for this physician Member to stand up here before this body, Mr. Speaker, and say while sometimes physicians are probably pitted against attorneys, I have great respect for them. In fact, I have two members of my immediate family, my brother and my daughter who are attorneys, who I am very proud of.

But just to have watched this gentleman in the hearings in the Senate Committee on the Judiciary, Mr. Speaker, after a week of questioning by our counterparts in the other body, I believe that the Congress and our Nation has a good sense of what kind of a jurist John Roberts will be if confirmed as our Nation's 17th Chief Justice. In fact, on one of the television news shows this past Sunday, a member of the Senate Committee on the Judiciary, the gentleman from South Carolina, Senator GRAHAM, when asked how did Judge Roberts perform, he said, "Well, let me just put it this way: If it had been a prizefight, they would have called it in the second round as a technical knockout and the person on the ropes would not have been Judge Roberts."

Without question, it was a technical knockout heading for a knockout.

Judge Roberts will indeed, Mr. Speaker, bring a refreshing, fair, and balanced approach to the United States Supreme Court which has not had a vacancy in 11 years.

Our Nation is a different place than it was in 1994. We have more access to information, more technology, a stronger economy; we have our brave soldiers defending democracy in our global war against terrorism. The United States Supreme Court needs a perspective that understands accountability to both the American people and, as the gentleman from Iowa said, especially to the United States Constitution. Like one of his mentors, the late Justice William Rehnquist, Roberts has a strict constructionist view of the Constitution. He interprets laws considering the intentions of our Founders instead of the whims and desires of a political party or electorate. That is why we need Judge Roberts on the Supreme Court. He can restore a sense of restraint to some very creative

interpretations of late. The gentleman from Arizona just talked about a few.

Judge Roberts' qualifications are, Mr. Speaker, unquestioned. However, the Supreme Court nominee has to face a litmus test on ideology. Some Senators are asking whether or not this particular justice will protect their favorite judicially constructed rights. Others have questioned how he might use the position as Chief Justice to help the survivors of Hurricane Katrina. Roberts very politely responds that he will interpret our laws on a case-by-case basis, he will hear each side and will always heed restraint to the separation of powers and constitutional government.

I could go on and on, but my colleagues, Mr. Speaker, have said it so well. This is a man that is a brilliant jurist, and it showed through so clearly during the Committee on the Judiciary hearings. I hope that when they have the vote on Thursday, or whenever it comes to a vote in the Committee on the Judiciary, there should not be many, if any, "no" votes, and I look forward to a speedy confirmation by the United States Senate.

I thank the gentleman from Arizona and my colleagues, the gentleman from Texas and the gentleman from Iowa, for letting me participate in this special hour. It is so important, as the gentleman from Texas said, that while we do not have any official role in regard to advice-and-consent responsibilities, we do have a responsibility and we have a voice, and it is good that we have this opportunity tonight to express that voice and to commend to the American people the new Chief Justice, John Roberts.

Mr. FRANKS of Arizona. Mr. Speaker, I thank the gentleman from Georgia. Mr. Speaker, in that the gentleman from Georgia (Mr. GINGREY) and I are such good friends and that I hold him in such high regard, I am going to forgive him here on the floor for suggesting that I might be a lawyer. I do not know if the gentleman from Iowa (Mr. KING) might want to extend such a forgiving hand as well. We are both on the Committee on the Judiciary and, of course, sometimes it is assumed that we are lawyers. But his points are so well taken, in that we do need judges that will simply read the law for what it is.

I know that we repeat this a lot, Mr. Speaker, but when courts forcefully interject false and unconstitutional notions that go against justice and natural law and common sense, without allowing the issue to go through the legislative process of debate and consensus, it abrogates the miracle of America and it abridges the freedom of the people to govern themselves. I just am hopeful that we can recognize that our courts, I say to the gentleman from Texas, were never intended to decide social policies, or any policies, for that matter. This is the job of the people's Congress. This is why people send us here. The legislative process creates a

dynamic for opposing voices on any issue to be heard in an open forum, and a strong consensus is necessary for any kind of decision, and where each decisionmaker can ultimately be held accountable by the people they govern.

□ 2100

And I know that the people of Texas are very proud that they have sent Judge Carter to the Congress.

Mr. CARTER. Mr. Speaker, first I want to say that I am happy to be privileged in that when Judge Roberts made his opening statement, and he started talking about balls and strikes, calling the balls and strikes, being the umpire, as far as I was concerned, it was over right there; he had won, because he understood the role of being a justice.

And he happened to use something that I had used on multiple occasions. You know, back in the small town where I started out as a judge, it grew to be a big town, we have a lot of baseball and girls' softball, and one time they said, hey, Judge, would you come out and call the balls and strikes; we lost our umpire.

And I said, friends, I call balls and strikes for a living. And I am not about to get up there and call balls and strikes at my daughter's softball game. But that is exactly right. That is understanding what a judge's job is. It is so very important that we have a judge that has the common sense of the American people to go along with a great intellect into the law.

It is just so very important that we have that kind of a judge that comes to the Court. This is exactly what we have in Justice Roberts. He is so impressive, I mean phenomenally impressive. So Judge Roberts stole that from me. But probably I would say stole it from lots of good judges. I kind of think that I was a good judge; but lots of good judges in the United States, because they understand the concept of what their job is.

Mr. FRANKS of Arizona. Mr. Speaker, Judge Carter can call the balls and strikes, in my judgment, any time.

With that, I would yield to my friend, the gentleman from Iowa (Mr. KING), for any further comments he might have.

Mr. KING of Iowa. Mr. Speaker, I want to express my gratitude for you setting up this hour and providing an opportunity for myself to speak. And as I stand here as a nonlawyer and reflect upon the future and upon this Constitution, I think there is something that young people lose sight of. And I gave a guest lecture at Central College in Pella a week ago last Friday, so that has been about, what, 9 days ago or so. And in that guest lecture, it was on the Constitution, and it lasted maybe an hour and 40 minutes or so. And it was interesting to me that one of the professors there came up afterwards and he said, you have made the Constitution interesting. I had not seen that before.

It never occurred to me that the Constitution was anything but interesting. It is a fascinating document. And if you know the history of it, there is a piece of it that we seldom talk about here, we often forget, and that is this guarantee, this guarantee of our freedoms and our liberties in this foundational document that is drawn upon the Declaration of Independence, and that our rights come from God, clearly in the Declaration, and we are endowed by our Creator with certain unalienable rights. Among them are life, liberty, the pursuit of happiness. But those rights are even more clearly defined in the Constitution, the rights that come from God. No man can take them away, because they come from God. And the Constitution defines that.

But as we watch this Constitution get amended with decision after decision by an activist Court, we see these rights be diminished by decisions of the Court.

And so I will take us to this question, which is: The Constitution either means what it says or it does not. If it means what it says, then we are constrained by the language, and we are further constrained by the language that was the intent of the original meeting, because the founders cannot be held responsible for an evolving language or evolving values system, or any idea that it should be read in light of contemporary values.

People try to do that with the Bible and they get off base. Truth, justice, sin, virtue have always been the same. They have been the same 1,000 years ago, 4,000 years ago, and they will be the same 4,000 years from now.

But the Constitution is our guarantee. And when we deviate from that language, that strict construction, that originalist, the understanding of the guarantee that the States have all opted into voluntarily, an irrevocable bond that was established at the end of the Civil War, and we understand that guarantee must be maintained through the constraint of the judicial branch, not the activism of the judicial branch, because an active judicial branch of government undermines our Constitution, erodes our rights.

If that is the case, then what value has that document whatsoever, if you are going to let the majority of nine justices determine the future of America? We have stepped back from that now with this appointment. We need at least two more to get there. It is a long evolutionary process to see this Constitution reestablished by the Court.

We did not get here overnight. We got here over 40 years or longer. It will take at least that long to get back again. But I look for that day.

Mr. FRANKS of Arizona. Mr. Speaker, I want to thank all of these men. You know, it is said in this place that the friends you find here, you can pick your pallbearers out of them. And I certainly feel that way about these three men.

I am grateful to have the opportunity to serve at this time in history with

men that love America, that love freedom, that love their fellow human beings as much as these men do.

We have talked a lot tonight about protecting the Constitution. But you know, really, sometimes it is good for us to step back and ask why we are really here. And ultimately we are here because we believe that the miracle of life in America is something that is unique.

Mr. CARTER. Mr. Speaker, let us point out that when our founders as States decided they wanted to write a document that they were going to submit to govern our Nation by, the Constitution of the United States, they chose to sit in Congress as a group of diverse opinions representing their various States to come up with this document.

They did not ask a battery of judges to come in here and do that. They asked people that represented their States to come in and represent the interests, and they debated, as we debate here in Congress, the laws we designed, and the intent is clear, that they wanted a Congress to make the laws of this United States.

They, in *Marbury v. Madison*, set the precedent that said the Courts may interpret the laws that are made, to see if they comply with the Constitution of the United States, which is the sovereignty of our Nation.

Of course, our true sovereignty is in God; and it is clear as the gentleman from Iowa (Mr. KING) points out, we stated the sovereignty that we look to in the Declaration of Independence, where we get our rights from. And they are not given to us by our government, they come from the divine authority of God. But they went forward on that and they established the Congress to make the laws.

And I agree 100 percent that is the intent of our founders, and that is the way it is supposed to be. That is the right and proper place. And the interpretation of Judge Roberts, so adequately and effectively and eloquently presented to the Senate to educate that bunch in the last week, proves that fact.

I want to say that I am honored to be here with these four gentlemen. These are some of my best friends. Let me point out that Judge Roberts is not from any of our States. We have no parochial interest in this whatsoever. We are just glad that we have got a great jurist coming forward.

Mr. FRANKS of Arizona. Mr. Speaker, I guess he says it so well, there is so little to add. But you know, the umpire kind of corollary has been used quite a lot here tonight, and what some of us have objected to is like in the book, *The Judicial Supremacist*, when the umpire says strike 2, you are out. And that is what has happened a lot in some of these decisions lately.

The courts and some of the activist judges have simply thrown the Constitution aside and said that they are not going to follow it. That is why we

are so grateful that John G. Roberts is going to be our next Chief Justice, because he, I believe, will have the erudition and the mentality and the heart to bring the rest of the Court to reaffirm what the rule of law is all about.

And, again, we talk about the rule of law. But, really, is it not about trying to uphold our fellow human beings? Because if we were willing to let judges drag us into that darkness where this concept of the survival of the fittest prevails, and whoever was strongest prevails, then it would not matter.

But, no, we believe that all people are created by God and have a divine spark in them and that they deserve to be protected and that is what the rule of law is all about.

And I just pray that God will continue to give the President of the United States the courage and the insight and the soundness of mind to protect America and the world and this United States Constitution that has given us the greatest Republic on earth.

FUND INTEROPERABILITY REQUIREMENTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Michigan (Mr. STUPAK) is recognized for 60 minutes as the designee of the minority leader.

Mr. STUPAK. Mr. Speaker, I am pleased to appear here tonight on behalf of the Democratic leader to talk about a problem that we have faced for many, many decades in this country and little or nothing is being done about.

And actually we have a very huge problem on our hands, and it is a problem that this Republican-led Congress and the administration has tried to minimize and brush aside for way too long, and that is interoperability.

Our first responders, our police, our firefighters, our sheriffs, our National Guard members, emergency medical technicians, cannot talk to each other in time of emergency, or even out on routine patrol, they cannot talk to each other across agencies, across country or across city lines. And they cannot talk to each other, to the State, to the local and Federal Governments for which they serve. We have law enforcement and first responders out trying to do their job, but what they see and what happens before them, they cannot communicate with each other.

The issue is called interoperability. Can I talk to the agencies next to me? Can I talk to that firefighter? Can I talk as a police officer to the emergency medical technician who is coming to help me?

As a former city police officer, and as a Michigan State police trooper, I can tell you that this is something that the law enforcement community has known for decades. The issue gained national attention after the Oklahoma bombing in 1995 at the Murrah Building and again on September 11.